

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

WENDY ELLIS BAILEY,

Plaintiff,

vs.

ANDREW M. SAUL, Commissioner of  
the Social Security Administration;

Defendant.

**8:19CV237**

**MEMORANDUM AND ORDER**

This is a Social Security appeal. The Administrative Law Judge (“ALJ”) issued a decision denying Plaintiff benefits on September 14, 2018. (Filing 19-2 at CM/ECF pp. 13-25.) The Appeals Council denied Plaintiff’s request for review on April 1, 2019, making the ALJ’s decision the final decision of the Commissioner of Social Security. (Filing 19-2 at CM/ECF pp. 2-7.) Plaintiff appealed the Commissioner’s decision in this court on May 30, 2019. (Filing 1.)

Defendant filed an Answer and the administrative record on September 9, 2019. Contrary to the court’s prior order (Filing 10), Plaintiff failed to file a motion for an order reversing the Commissioner’s decision with a supporting brief within 30 days after the administrative record was filed. Due to Plaintiff’s failure, the Commissioner has not filed a motion for an order affirming the Commissioner’s decision, and the Plaintiff has not filed a reply brief.

Nebraska Civil Rule 41.2 provides: “At any time, a case not being prosecuted with reasonable diligence may be dismissed for lack of prosecution.” Because Plaintiff has failed to prosecute this case with diligence, I shall order her to show cause why this case should not be dismissed. Accordingly,

IT IS ORDERED:

1. Pursuant to Nebraska Civil Rule 41.2, Plaintiff shall show cause why this action should not be dismissed without prejudice for lack of prosecution **on or before January 31, 2020**, in the absence of which this matter shall be dismissed without further notice to Plaintiff; and

2. Defendant's Motion to Substitute Party (Filing 17) is granted, and the Clerk of Court shall substitute Andrew M. Saul, Commissioner of the Social Security Administration, as the sole defendant in this case.

Dated this 15th day of January, 2020.

BY THE COURT:



Richard G. Kopf  
Senior United States District Judge